



NEW FAIRTIMES

California Department of Fair Employment & Housing

Fourth Quarter

2011



2011 ushers in a new civil rights era with a renewed commitment to providing public service, outreach, advocacy and resource.



COURT GAVE FINAL APPROVAL TO DFEH v. VERIZON \$6 MILLION CLASS ACTION SETTLEMENT

On December 8, 2011, Los Angeles Superior Court Judge Anthony J. Mohr heard the motion for final approval of the \$6,011,190 California Family Rights Act (CFRA) class action settlement in *Dept. Fair Empl. & Hous. v. Verizon* (Seales) (Super. Ct. L.A. County, No. BC444066). In open court, Judge Mohr gave final approval of and praised the class settlement. Under the supervision of DFEH's Enforcement Division and Special Investigations Unit (SIU), 16 law students in the DFEH's 2011 summer programs of the DFEH-UC Irvine and DFEH-UC Davis Schools of Law admirably completed classifying 966 claims.

The class action lawsuit began with a more than two-year-long investigation by the Department's Special Investigations Unit into Verizon's practices under the California Family Rights Act. The lawsuit alleges that from 2007 to 2010, Verizon denied or failed to timely approve class members' requests for leave for their own serious health condition, to care for a family member with a serious health condition, or to bond with a new child. The company also allegedly fired some class members for violating Verizon's attendance policy when they missed work for a qualifying reason.

The final settlement will result in payment of \$4,490,041 from the maximum settlement amount to 687 qualified claimants as follows:

- Tier 1: Claimants who experienced improper denial of their application for leave under the California Family Rights Act will receive a check for \$3,000;
- Tier 2: Claimants who were subject to discipline for poor attendance due to absences under the California Family Rights Act will receive a check for \$6,000.
- Tier 3: Claimants who were terminated or constructively terminated in violation of the California Family Rights Act will receive a check for \$25,000 or more.

DFEH CIVIL RIGHTS CLINICS CONTINUE TO FLOURISH

The DFEH continues its fall 2011 clinical programs with UC Irvine and UC Davis Schools of Law. The Department further commenced a third DFEH partnership with California State University, Bakersfield. There are 22 students in all working on civil rights case investigations under the supervision of the DFEH Chief of Enforcement and his staff.

Fall 2011 DFEH-CSU Bakersfield Civil Rights Clinic. L-R Intern Jose Guzman, Jr., Intern Cindy Zuniga, DFEH Director Phyllis Cheng, Intern Candice Criswell, Intern Michelle Henry, and DFEH Regional Administrator Mary Bonilla.



DFEH INTERNSHIP OPPORTUNITIES - Even if your university or college does not have a partnership with the DFEH, you can apply for an internship independently. Students can intern in the Legal Division or the Enforcement Division.



DFEH VICTORIES BEFORE THE FAIR EMPLOYMENT AND HOUSING COMMISSION

Dept. Fair Empl. & Hous. v. R.J.L Group, Inc. (Rose), FEHC Dec. No. 11-12, Sexual Harassment in Employment

The supervisor discriminated against the employee by subjecting her to unwanted verbal and physical harassment, creating a hostile work environment, and making clear that the employee's success in the company was dependent on her succumbing to his advances. When the employee was offended by her supervisor's advances and asked him to stop. The supervisor retaliated by escalating his unlawful harassment and terminating her employment. The Fair Employment and Housing Commission found in the Department's favor as to sexual harassment and ordered \$35,000 to the employee for emotional distress. The Commission also ordered \$10,000 for the administrative fine and affirmative relief.

Dept. Fair Empl. & Hous. v. Steinberg (Fehd), FEHC Dec. No. 11-10, Disability Discrimination in Housing

The landlord discriminated against the tenant based on her disability, Parkinson's disease, by serving her with an eviction notice and by imposing additional rules on the tenant upon learning the nature of her disability. The tenant was unable to sleep the night she received the eviction notice and was deeply hurt. The next day, with the assistance of a friend, the tenant moved into her daughters place temporarily until she could find a new place to live. The Commission found the landlord had violated Government Code section 12955, subdivisions (a), (c), (d), and (k). The Commission ordered the landlord to pay the tenant her deposit and moving costs totaling \$850, a civil penalty of \$10,000, emotional distress damages of \$35,000, and imposed affirmative relief.

DFEH SETTLEMENTS

Dept. Fair. Empl. & Hous. v. Ralphs Grocery Co. (Drozdal) **DFEH Case No. E-200910-K-1066-00-fpe, CFRA Discrimination**

Ralphs Grocery Co. suspended, then later terminated the employee one day after he exhausted his California Family Rights Act (CFRA) leave and eight days before his new CFRA leave period would have commenced. The Department alleged that Ralphs' termination of the employee was because of his disability (vertigo) and in retaliation for exercising his rights to take CFRA leave. The Department further alleged that Ralphs failed to reasonably accommodate his disability by allowing him a finite leave of absence, failed to engage him in an interactive process and failed to prevent discrimination from occurring. The case settlement with payment of \$70,000 to the employee and affirmative relief.

Dept. Fair. Empl. & Hous. v. Juice It Up, Omar Medina (Sanchez), DFEH Case No. E-200910-S-1111-00-se, Sexual Harassment in Employment, \$15,000 and affirmative relief.

Dept. Fair. Empl. & Hous. v. Progress Foundation (McDowell), San Francisco County Superior Court No. CGC-11-510958, Sex and Pregnancy Discrimination, \$15,000 and affirmative relief.

Dept. Fair. Empl. & Hous. v. Gerardo Morfin dba El Mariachi Mexican Food (Weems-Sanders), San Luis Obispo Superior Court Case No. CV108066, Sexual Harassment in Employment, affirmative relief.

DFEH IN THE NEWS

October 12 - The Daily Journal published an article about the DFEH's new procedural regulations. The rules were approved by the Office of Administrative Law on September 7, 2011 and became effective October 7, 2011.

November - The California Real Property Journal, a quarterly publication of the Real Property Law Section of the State Bar of California, Vol. 29, No. 3, 2011, published DFEH Special Projects Counsel Susan Saylor's article on "How to Make Your Law Firm Accessible to People with Disabilities."

November 8 - The Daily Journal published an article by DFEH Director Phyllis Cheng and Littler partner Margaret Gillespie about the DFEH's new procedural regulations.

November 25 - The Daily Journal's Verdicts & Settlements featured *Dept. Fair Empl. & Hous. v. United Parcel Service* (Mason), in which the Fair Employment and Housing Commission found the employer had discriminated against the employee on the basis of disability. The Commission ordered UPS to pay \$96,170 in damages plus \$10,000 in fines.

See the DFEH's press releases during the fourth quarter of 2012.





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DFEH SAVED CALIFORNIA HUNDREDS OF THOUSANDS, TRAINS MORE THAN 7,000 WITH NEW SEXUAL HARASSMENT PREVENTION WEBINARS

The DFEH announced on December 20, 2011 that the State has saved \$280,000 and trained more than 7,000 of its employees since June by providing webinar-based no-cost mandatory sexual harassment prevention training.

"Working together to conserve resources is an important part of this administration's mission," said Department Director Phyllis Cheng. "During these tough financial times, it is incumbent upon all state departments to implement cost-saving measures; I'm pleased that our department is able to do our part to help, while continuing to fulfill our mission."

California law requires all employers—including the State—to provide two hours of classroom or other interactive sexual harassment prevention training to supervisors in California every two years. Since Assembly Bill 1825 became effective January 1, 2005, numerous private vendors have made sexual harassment prevention training courses available to employers for a fee.

Over the past six months, the Department has partnered with the State Personnel Board and the Department of Personnel Administration to offer these free monthly interactive webinars as part of the State's requirement to provide sexual harassment prevention training to its supervisors and managers.

In January 2012, the Department will begin offering its webinars statewide to private employers for a modest fee, and continue to offer cost-free training to all state employees. The Department estimates that continuing to provide the State free sexual harassment prevention training could save the General Fund significant money annually.

MORE DFEH WEBINARS

In addition to the sexual harassment prevention training above, the DFEH offered webinars free of charge to State employees on these topics: Understanding the Rights of Parents in the Workplace; and Marital Status Discrimination, Anti-Nepotism and Anti-Fraternization Policies in the Workplace.

DFEH OUTREACH ACTIVITIES

In the fourth quarter of 2011, DFEH Director Phyllis Cheng outreached to the following groups: DFEH-UCI School of Law Civil Rights Clinic; DFEH-CSU Bakersfield Civil Rights Clinic; California Civil Rights Officers Council; California Employment Lawyers Association; Central California Employment Round Table; Employment Round Table of Southern California; Practicing Law Institute; CalCPA Foundation; Central Valley Human Resources Management Association; Organization of Chinese Americans Day of Inclusion.

DFEH staff outreached or made presentations to the following group: Statewide Advisory Council; Fair Housing of Marin; and State Bar Fair Housing and Public Accommodations Subsection.

DFEH 2010 ANNUAL REPORT

See the DFEH 2010 Annual Report, which shows the DFEH continues to more effectively and efficiently carry out its civil rights mission. The Department increased its productivity and achieved better results as the number of prosecutions and settlements grew to more than \$11 million in 2010.

Opportunity

If you already practice employment law under the FEHA, why not also expand your practice to housing law under the same Act? The State Bar Real Property Law Section has launched a Fair Housing and Public Accommodations Subsection to train attorneys on the FEHA housing practice and the Unruh Civil Rights Act reasonable accommodations practice. If you are interested, please e-mail Phyllis Cheng at phyllis.cheng@dfeh.ca.gov to receive an invitation to join the Fair Housing and Public Accommodations Subsection's free E-Circle.